ZONING COMMITTEE STAFF REPORT

FILE NAME: 629 Bush Rezoning

FILE # 24-061-552

APPLICANT: Tegg Holdings LLC

HEARING DATE: September 5, 2024

TYPE OF APPLICATION: Rezoning

LOCATION: 629 Bush Ave, between Payne Avenue and Edgerton Street

PIN & LEGAL DESCRIPTION: 29.29.22.43.0152, 29.29.22.43.0153, and 29.29.22.43.0154;

See file for legal description.

PLANNING DISTRICT: 5 PRESENT ZONING: H2/I1/T2

ZONING CODE REFERENCE: § 61.801(b) **STAFF REPORT DATE**: August 29, 2024

DATE RECEIVED: July 15, 2024 **60-DAY DEADLINE FOR ACTION:** September 13, 2024

BY: Bill Dermody

A. **PURPOSE:** Rezone from H2 residential district, I1 light industrial district, and T2 traditional neighborhood district to IT transitional industrial to establish an outdoor garden center.

B. PARCEL SIZE: 1.5 acresC. EXISTING LAND USE: VacantD. SURROUNDING LAND USE:

North: Railroad and Phalen Boulevard (I1)

East/Southeast: Vacant (T2)

South: Single-family and two-family residential (H2)

West: Vacant (I1)

- E. **ZONING CODE CITATION:** § 61.801(b) provides for changes to the zoning of property initiated by the property owner.
- F. **HISTORY/DISCUSSION:** For several decades until at least 1991, the site was used as storage associated with the adjacent railroad use. In 1991, the railroad sold the land but leased it back. By 2003 it was being used for outdoor storage of inoperable vehicles, storage tanks, construction debris, and more, without permits and not associated with the railroad use. In 2004, much of the site was rezoned from I1 light industrial district to R4 residential district as part of a larger rezoning along the Phalen Corridor. In 2006, the Department of Safety and Inspections ordered the outdoor storage use to be removed. By 2008 it was vacant. In 2021, the three lots that comprise the subject site were created as part of a larger subdivision that also addressed other land to the west; the developer that pursued the lot split did not move forward with construction and instead sold the property. In 2023, the R4 residential district was reclassified to the H2 residential district as part of a citywide rezoning. In 2024, some site preparation and storage has occurred on the site that is not permitted by the current zoning.
- G. **DISTRICT COUNCIL RECOMMENDATION:** The Payne Phalen Community Council recommends approval of the rezoning.

H. FINDINGS:

- 1. The application requests rezoning from H2 residential district, I1 light industrial district, and T2 traditional neighborhood district to IT transitional industrial to establish an outdoor garden center.
- 2. The site is located between railroad tracks to the north and residential uses to the south across Bush Avenue. Most of the site has a gentle slope from southeast to northwest, and is at nearly the same elevation as the railroad tracks. The site's eastern edge

Zoning Committee Staff Report Zoning File #24-061-552 Page 2 of 3

features a retaining wall and hill, with Payne Avenue about 20 feet above the elevation at the middle of the site. The site has a shallow breadth from north to south, as little as 71 feet deep on the west and gradually increasing to 100 feet deep before a property line jog in its eastern portion increases the width up to a maximum of about 117 feet. According to the MPCA it is a brownfield with contaminants that include mercury.

3. The proposed zoning is consistent with the Comprehensive Plan. In Map LU-2, the Comprehensive Plan designates the site's 2040 future land use as a combination of Urban Neighborhood (east of Edgerton Street) and Industrial (west of Edgerton); the map also identifies a Neighborhood Node centered on the intersection of Payne Avenue and Phalen Boulevard, about 300 feet northeast of the subject site.

Urban Neighborhoods are primarily residential areas, but with some limited neighborhood-serving commercial present. The Industrial designation refers to traditional industrial uses (manufacturing, processing, warehousing, etc.) and more contemporary uses driven by technological advances, with the intent that this land use type is adaptable, relevant and supportive of well-paying jobs with low barriers to entry. Neighborhood Nodes are compact, mixed-use areas that provide uses including employment close to residences, and they are denser concentrations of development relative to their surroundings.

Policy LU-36 calls for promoting neighborhood-serving commercial businesses with Urban Neighborhoods that are compatible with the character and scale of the existing residential development. Policy LU-45 calls for supporting and encouraging development in Industrial areas that maximizes tax base, job creation and/or job retention. Policy LU-30 calls for focusing growth at Neighborhood Nodes using the following principles: (1) Increase density toward the center of the node and transition in scale to surrounding land uses; (2) Prioritize pedestrian-friendly urban design and infrastructure that emphasizes pedestrian safety; (3) Cluster neighborhood amenities to create a vibrant critical mass; (4) Improve access to jobs by prioritizing development with high job density.

The Payne Phalen District 5 Plan, in Goal 4.1.4, calls for "reduc(ing) conflicts between commercial and industrial uses and other types of land use, especially residential."

The proposed rezoning creates a buffer zone between the active railroad use to the north and the residential uses to the south. It allows for additional employment near a Neighborhood Node in a location where the buffering it provides from the railroad will ease future residential infill and intensification of residential uses south of Bush Avenue, thus allowing the Neighborhood Node to better meet its potential in pursuit of the principles in Policy LU-30.

- 4. The proposed zoning is compatible with surrounding uses, including residential uses to the south, the railroad to the north, and industrial uses to the west. The intent of the IT transitional industrial district is "to provide sites for commercial, office and light industrial uses that are compatible with nearby residential and traditional neighborhood districts, parks, and parkways."
- 5. Court rulings have determined that "spot zoning" is illegal in Minnesota. Minnesota courts have stated that this term "applies to zoning changes, typically limited to small plots of land, which establish a use classification inconsistent with the surrounding uses and create an island of nonconforming use within a larger zoned property." The

Zoning Committee Staff Report Zoning File #24-061-552 Page 3 of 3

- proposed IT zoning would not constitute spot zoning because it is consistent with the surrounding uses and acts as a transition district between surrounding uses.
- 6. Per Minn. Revised Statutes 462.357, the consent of 2/3 of the owners of surrounding property within 100 feet of the subject site is required because the application involves rezoning from a residential district to a commercial or industrial district. The consent petition provided with the application was found to be sufficient: 25 parcels eligible; 17 parcels required; 17 parcels signed.
- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the rezoning from H2 residential district, I1 light industrial district, and T2 traditional neighborhood district to IT transitional industrial district at 629 Bush Avenue.

Attachments

- 1. Application
- 2. Narrative
- 3. Written Testimony
- 4. Maps

PETITION TO AMEND THE ZONING CODE



PETITION TO AMEND THE ZONING CODE

Department of Planning and Economic Development
Zoning Section
1400 City Hall Annex
25 West Fourth Street
Saint Paul, MN 55102-1634
(651) 266-6589

Zoning Office Use Only					
File #:					
Fee:					

(651) 26	66-6589		Fee:
APPLICANT	Property Owner <u>Tegg Holdings LLC</u>		
	Address 11 Alice Court	-	
	City St. Paul State MN Zip 55107-2634	Daytime Pho	ne 651-210-0648
PROPERTY LOCATION	Address/Location 629 Bush Avenue		
	Legal Description Please see attached Exhibit A		
TO THE HONOR	RABLE MAYOR AND CITY COUNCIL:		
Statues, <u>Tegg H</u> hereby petitions district for the pu	ion 61.800 of the Saint Paul Zoning Ordinance and to loldings, LLC, a Minnesota limited liability company, or you to rezone the above described property from I-1 a rpose of: establishing an owner operated Garden Cent Paul Zoning Ordinance.	wner of land p and R-4 zoning	roposed for rezoning, g districts to the I-T zoning
(Attach additional shee ttachments as requ	ets if necessary) uired: Site Plan Consent Petition Affidavit		
Subscribed and st	worn to before me	By: Tegg Hol	dings LLC
Date	20	Fee owner of	f property

Notary Public See attached atida myt

AFFIDAVIT

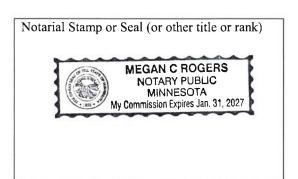
STATE OF Minnesota)	
)	
COUNTY OF RAMSEY	,	
COUNT OF ICHINDE	,	

I, Donovan Tegg, being duly sworn, depose and state as follows:

That I signed the attached consent form and associated land use application. I am authorized and qualified to sign on behalf of Tegg Holdings, LLC.

That the information contained in this Affidavit is true to the best of my own knowledge.

Subscribed and sworn to before me on this the 17th of June, 2024.



Signature of person taking acknowledgment

CITY OF SAINT PAUL

AFFIDAVIT OF PETITIONER FOR A REZONING

STATE OF MINNESOTA)		
:SS		
COUNTY OF RAMSEY)		
The petitioner, that the consent petition contains signatures of the celigible properties within 100 feet of the subject property contiguous to the subject property that was within one (1) year preceding the date of the petition petition must contain signatures from each and all constitute consent from that property and that failur could invalidate the consent petition; petitioner believach of said owners and that the signatures are the tenth parties so described.	operty described in the petition and sowned, purchased, or sold by the on; petitioner is informed that the cowners of jointly-owned property the to obtain consent from each and leves that the consent petition was	of all d all e petitioner consent in order to l all owners signed by
	Donovan Tegg	Donovan Tia
	NAME	74956F7068A24E3
	11 Alice CT, St Paul, MN5510	7
	ADDRESS	
	2,389,008.00	
	TELEPHONE NUMBER	



Larkin Hoffman

8300 Norman Center Drive Suite 1000 Minneapolis, MN 55437-1060

General: 952-835-3800 **Fax:** 952-896-3333

Web: www.larkinhoffman.com

July 11, 2024

City of St. Paul City Planner Bill Dermody 25 W 4th Street, 14th Floor St. Paul, MN 55102

Re: King Scapes- 3rd revised application for rezoning and variance for 629, 605, and 575 Bush Avenue, St. Paul

Dear Mr. Dermody,

We represent King Scapes, an owner-operated landscaping company based out of the east metro, serving the greater Twin Cities area. King Scapes desires to develop a "Garden Center, Outdoor" ("Garden Center") selling mulch, landscape rock, and topsoil that also provides storage for King Scapes' fleet of vehicles and equipment. Tegg Holdings, a related entity under common ownership with King Scapes, owns the Bush Avenue properties (the "Property") currently addressed as 627/629 Bush Avenue on the east side of the City of St. Paul (the "City"). Please accept this letter, together with the attached materials, as an application by King Scapes for redevelopment of the Property.

I. Project Summary

King Scapes desires to revitalize a vacant, overgrown lot with decaying fencing and infrastructure. Since it purchased the Property, it has worked to remove invasive species, clean up trash at the site and invested in maintenance. The proposed reuse of the Property will bring a complementary service to the surrounding neighborhood providing mulch, landscape rock, and top soil to both homeowners and commercial users in the area and create new jobs within the City. In addition to material sales, King Scapes seeks to use the Property and its central location to showcase the landscape design work it does for its customers, building out a thoughtfully designed center. All outdoor storage viewable from residential properties will be fenced and screened. As further described herein, King Scapes seeks to rezone the Property to the City's IT district. The proposed rezoning creates a consistent use across the Property, while creating the opportunity for a thriving local business to invest in the neighborhood and create new jobs on the east side. At its core, King Scapes is a landscape design company dedicated to improving spaces with innovative design. It will bring this attention to detail to this project and the Property.

II. Zoning Overview

The Property is located in the Payne Phalen neighborhood in the City in a sub-area historically referred to as Railroad Island. The north property line is shared with Union Pacific Railroad and the Edgerton Street bridge bisects property owned by Tegg Holdings. The Property is unique in that it is zoned I-1, R-4, and T-2 and is guided both Industrial and Urban Neighborhood. Development is significantly limited by access, the existing City and railroad right of way, grade, and overall lot size.



Image 1: St. Paul Zoning Map

The north segment of the Property is zoned I-1, abutting the railroad tracks, while the south side of the Property is zoned R-4 reflecting the single-family homes and commercial uses across Bush Avenue. The easternmost sliver of the Property is zoned T-2. The portion of the Property depicted as lot 629 on Image 1 above includes all three applicable zoning districts. The surrounding neighborhood includes a mix of homes, businesses, and industrial uses. The Property is currently fenced with two existing curb cuts on Bush Avenue. Aerial photographs indicate a former drive aisle running the length of the Property, likely accessed via the curb cut near the intersection of Payne and Bush Avenues.

The western edge of the Property- that portion of the lot west of Edgerton, is guided Industrial pursuant to the City's 2040 Comprehensive Plan (the "2040 Plan"). The Industrial land use designation has traditionally preserved land for manufacturing, processing, warehousing, and transportation of goods. The 2040 Plan adds new flexibility for contemporary industrial uses including limited production and processing and medical manufacturing. Industrial users are a significant net positive payer of property taxes relative to City services consumed. The 2040 Plan directs the City to preserve industrially guided properties and protect current industrial land from conversion to residential or institutional uses.

The remainder of the Property is guided Urban Neighborhood. The Urban Neighborhood land use was developed to preserve residential uses, alongside neighborhood serving commercial businesses and institutional uses like schools, religious institutions, and cemeteries. Urban Neighborhood is the largest land use area in Saint Paul. The 2040 Plan directs the City to promote and seek local businesses that are compatible with the character and scale of existing residential development. As further described herein, the proposed Garden Center use does just this by allowing for the further development of a local business on a City lot with extremely limited development potential that is compatible with and beneficial to the existing neighborhood.

The proposed Garden Center use is currently a permitted accessory use within the northern portion of the Property abutting the railroad tracks. The I-1 zoning district is designed to accommodate wholesale, warehouse, and industrial operations whose external physical impacts are restricted to the area of the district. Alternatively, the southern portion of the Property is zoned R-4. The R-4 District is intended to provide for low-density, one-family dwellings along with civic and institutional uses, public services, and utilities that serve residents. The proposed Garden Center with exterior storage is not a permitted or conditional use in the R-4. To provide for a transitional space between the I1

District to the north and the R-4 District to the south, King Scapes is seeking a rezoning of the entirety Property to the City's IT district-Industrial Transitional.

The purpose of the IT District is to provide for commercial and light industrial uses specifically compatible with nearby residential and traditional neighborhood districts. The proposed use is permitted within the IT District and utilizing this District provides for consistency with the 2040 Plan's Industrial and Urban Neighborhood designations.

A. The application meets the required findings for rezoning the entirety of the Property to the IT-District.

Section 60.801(b) of the zoning ordinance provides that an amendment to the zoning map may be initiated by application of the owners of sixty seven percent (67%) of the area to be rezoned. King Scapes owns the Property in its entirety. For rezonings from residential to industrial zoning, state law requires submission of a consent petition signed by two-thirds of the property owners within 100 feet of the parcel being rezoned. Since October 2022, King Scapes has worked diligently to meet with its neighbors and obtain consent petitions from the surrounding property owners including homeowners, the Union Pacific Railroad, City of St. Paul and its Housing and Redevelopment Authority. Compliant signatures obtained from surrounding landowners are submitted concurrently with this Application.

The proposed rezoning of the Property to the IT District is compatible with the land use and zoning classifications found in the broader Railroad Island neighborhood. The Property is guided both Industrial and Urban Neighborhood. The transitional industrial uses allowed within the IT District are specifically designed to reduce impacts on adjacent residential properties, similar to the neighborhood commercial uses found in the R-4 and traditional neighborhood districts that abut the Property. Rezoning the southern portion of the Property from R-4 and T-2 to the IT District brings the Property into conformance with the City's 2040 Plan. Moreover, based on the size and depth of the Property, as well as its proximity to an active railroad, the Property is not well suited to residential development. This action allows the City to support neighborhood commercial business, add jobs, create conformity for a lot impacted by multiple land uses and zoning districts, while supporting an appropriate commercial use with a site plan that will enhance the overall neighborhood. For these reasons, we request that the City rezone the Property to the IT District.

B. The application meets the required findings and criteria of approval for a variance permitting the Garden Center as a principal use without a permanent structure.

1. The variance is in harmony with the general purpose and intent of the zoning code.

The IT district is intended to provide sites for commercial, office and light industrial uses that are compatible with nearby residential neighborhoods. The Garden Center use is a permitted accessory use within the IT district. A Garden Center is defined as a commercial business engaged in the "retail sales of plants not grown on the site, lawn furniture, playground equipment, and garden supplies." The Garden Center use must be on a lot at least twenty thousand square feet in area and storage of mulch and other materials must be located at the end or rear of a building.



Image 2: Aerial depiction of the Property.

Based on the configuration of the existing lots, the slope of the Property, the impact of railroad right of way and easements and public dedications along Bush avenue and the Edgerton bridge, there is little developable area to construct a physical building on the Property that would accommodate drive aisles or parking required for *any* permitted use. These limitations are further described by the attached survey and shown in the elevation profiles below. The Property is narrow, slopes down toward the railyard, and has an almost twenty foot grade plane change from east to west. The widest portion of the Property, where a building could be built to allow for sufficient fire access, parking and drive aisles is where the Property is significantly sloped making construction impracticable without creating significant impact to the adjacent City owned parcels. Moreover, because the Property was a former railyard and dumping ground, substantial grading of the Property would create additional environmental concerns related to known mercury, lead and arsenic deposits on the Property.



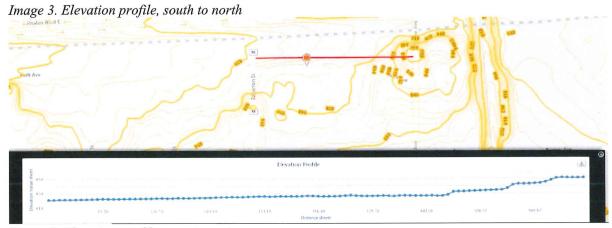


Image 4. Elevation profile, west to east

The proposed use of the Property as a Garden Center allows for the active use of the site, consistent with the purpose and intent of the IT District. The materials to be sold and vehicles to be stored on the Property will be screened from the residential properties on Bush Avenue through a combination of fencing and landscaping. Granting the variance to allow for materials to be displayed and vehicles to be parked, subject to screening and design requirements, without a permanent building on site is consistent with the purpose and intent of the zoning ordinance.

It is also for this reason that it is appropriate to permit the Garden Center use as the principal rather than accessory use on the Property. King Scapes is seeking to use the Property as an east side hub to facilitate and display its landscaping design work as well as sell materials. At its core King Scapes is a service business. Section 65.414 of the Zoning Ordinance describes a "service business with showroom or workshop" where the business would have an enclosed workroom and then a showroom or sales area in the front of the building. King Scapes intends to use its screening and plantings as its "outdoor showroom" for potential design clients. The work that it does along Bush Avenue that provides screening for the neighborhood will also serve as examples of seasonal plant and shrub layouts that clients can select from. Again, because construction of a commercial building or office space on the Property is not possible based on existing site conditions, it is appropriate to grant King Scapes this flexibility.

2. The variance is consistent with the comprehensive plan.

The Property is guided Industrial and Urban Neighborhood. Garden Centers with outdoor storage and service businesses are permitted within all three industrial districts and within many of the City's traditional neighborhood districts. The variance is consistent with the 2040 Plan.

3. There are practical difficulties in complying with the Building requirement and King Scapes proposes to use the Property in a reasonable manner not permitted the existing ordinance.

King Scapes seeks to improve the Property by activating a vacant, underutilized lot, clearing invasive species, eliminating damaged fencing, and investing in extensive new screening that will benefit the neighborhood. Redevelopment of this site will allow King Scapes to showcase its design acumen while also providing jobs, goods, and services for use by City residents and businesses. Based on the impact of the railway, existing easements and limitations of the Property- including restrictions emanating from the Edgerton and Payne bridges, there are few, if any permitted uses feasible for the Property that

would both accommodate the zoning ordinance's building requirement and be commercially reasonable. The Property is only 91 feet deep at its widest point with 20 feet of the 91 portion of the lot impacted by a 20 foot sewer easement. In fact, a local developer purchased these lots in 2017 to create a "tiny home" community. It proved commercially unfeasible for residential use based on high cleanup costs and the reality that the Property is bordered by two active rail tracks. These site-specific restrictions are practical difficulties that limit King Scapes' ability to comply with the ordinance. Use of the Property for this purpose, without a building with appropriate screening in place for the residential properties to the south, is reasonable and will contribute to the surrounding community.

4. The lot limitations are due to circumstances unique to the Property not created by King Scapes.

As previously described, the limitations on this Property were in place prior to King Scapes' purchase of the site. Accordingly, the variances requested are appropriate.

5. The variance will not permit any use that is not allowed in the zoning district where the affected land is located.

The Garden Center, Outdoor use is a permitted accessory use within the IT District.

6. The variance will not alter the essential character of the surrounding area.

The variance requested will not alter the essential character of the surrounding area- the Property has sat vacant for many years. Historical photos of the Property show that it was previously used as a railyard.



Image 3: 1950's Aerial Photo of the Property

A warehouse and other structure owned by the railway on its right of way, existed on the Property until about 2007. It was demolished sometime after 2008 and the Property has remained fenced and vacant ever since. Approval of the requested variance will benefit the surrounding properties by cleaning up an unlit and uncared for site and returning it to active use. If approved, all parking for the proposed use can provided for on the Property.

The proposed use is consistent with the goals of the 2040 Plan with the intent of the zoning ordinance and is well suited to contribute to the City's tax base and complementary to the existing commercial and

\mathbf{r}		\neg
Pag	TA	/
Las	50	/

industrial uses in the neighborhood. These uses-building material supplier, automotive repair and service- are not operated as legally non-conforming properties but within the guidelines of the zoning ordinance within the adjacent I-1 District.

Based on the findings above and the attached materials, redevelopment of the Property meets all applicable required findings necessary for approval. Please do not hesitate to contact me if you have any questions or would like to discuss further.

Sincerely,

Megan C. Rogers, for Larkin Hoffman

Direct Dial:

(952) 896-3395

Direct Fax: Email: (952) 842-1847 mrogers@larkinhoffman.com

4871-2041-3278, v. 5



567 Payne Avenue, St. Paul MN 55130 www.paynephalen.org 651-774-5234 district5@paynephalen.org

August 28, 2024 VIA EMAIL

Zoning Committee of the St. Paul Planning Commission c/o Bill Dermody, Senior Planner 25 West 4th Street, 1400 City Hall Annex St. Paul, MN 55102

RE: Application to rezone 629 Bush Avenue, 605 Bush Avenue, 575 Bush Avenue to Transitional Industrial (IT)

Dear Zoning Committee:

I am writing to you on behalf of the Board of Directors of the Payne-Phalen Community Council. Our Board of Directors met in community in our regular community meeting last night - Tuesday, August 27, 2024. One of the items on the agenda was the application by King Scapes to rezone the properties at 629 Bush Avenue, 605 Bush Avenue, 575 Bush Avenue to Transitional Industrial (IT) to allow for the creation of a landscape center.

After lengthy and detailed discussion, the Board of Directors of the Payne-Phalen Community Council voted to support the rezoning applications for this project. The vote was not unanimous, but the majority voted in support of this application.

Please include this letter in the packet of materials for the upcoming public hearing. We are grateful to the Zoning Committee for taking the position of the Payne-Phalen Community Council into full consideration as you make your decision. Please feel free to contact me if you have any questions or require further clarification.

Sincerely,

Jack Byers, Executive Director

cc. Donovan Tegg, King Scapes
Council Member Nelsie Yang, Ward 6
Council Member Rebecca Noecker, Ward 7
Damian Schaab, Co-Chair, Railroad Island Neighborhood Group
Don Lorr, Co-Chair, Railroad Island Neighborhood Group
Robin Rivard, Co-Chair, Railroad Island Neighborhood Group
Rebecca Nelson, PPCC Board President
PPCC Board of Directors

 From:
 Tom Drazkowski

 To:
 *CI-StPaul ZoningCases

 Subject:
 Zoning case #24-061-539

Date: Wednesday, August 28, 2024 10:40:32 AM

St. Paul Planning,

I am a building owner at 551 Phalen Blvd. I am submitting a written recommendation for the Re zoning of the property across Phalen at 629 Bush. Not knowing the use, as far as a garden center, any development would be greatly appreciated, to clean the lot and enhance the area. In addition, additional tax base in St. Paul is always necessary for a vibrant city. My only objection would be if the "garden center" was a cannabis grow facility. This would be an issue with additional crime and issues with that type of use.

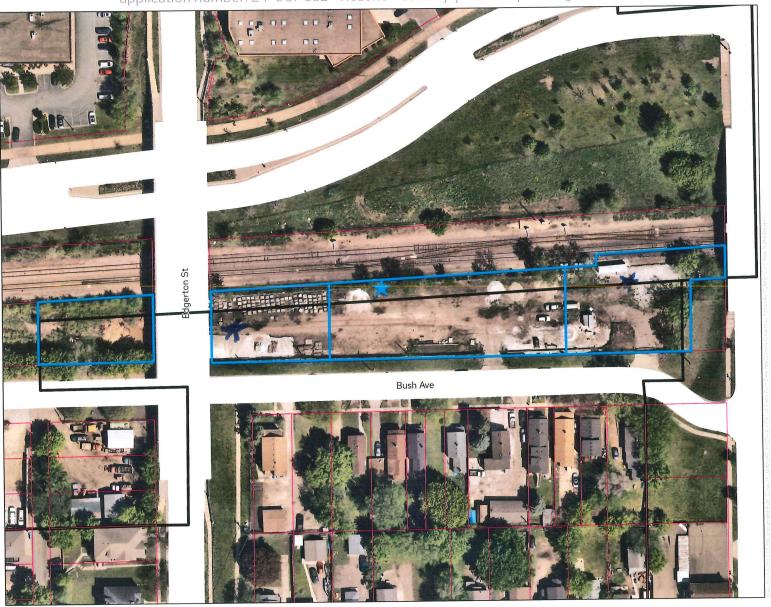
Respectfully,

Tom Drazkowski Stone Machinery 612-716-5005 tdraz@stonemachinery.com www.stonemachinery.com

Application of

Tegg Holdings LLC Aerial map

application number: 24-061-552 * Rezone * date: 8/1/..2024 * planning district: 5



Subject parcel(s) are outlined in blue

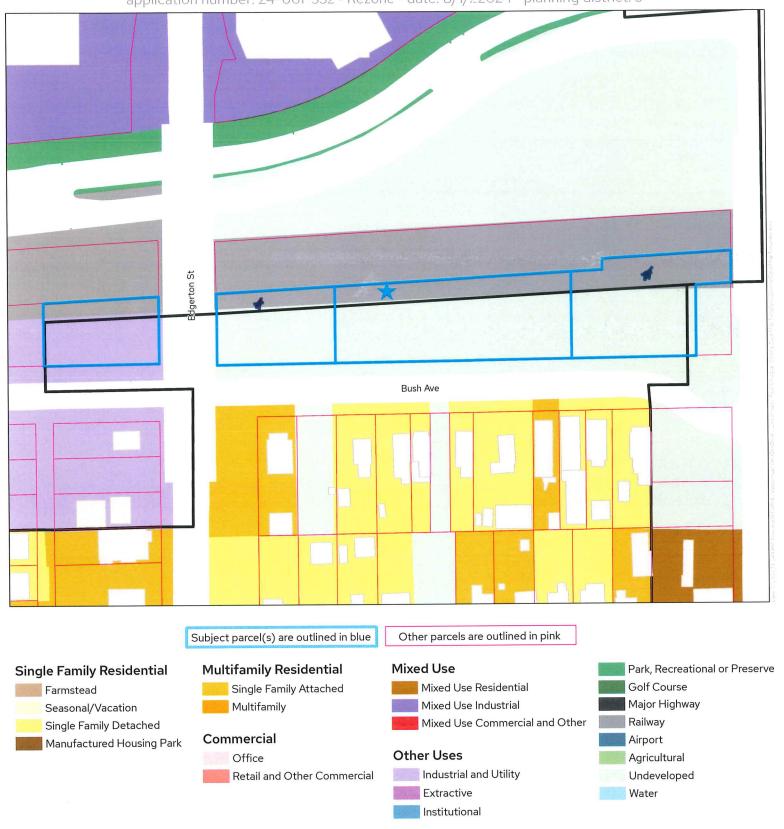
Other parcels are outlined in pink



Application of

Tegg Holdings LLC Land use map

application number: 24-061-552 * Rezone * date: 8/1/22024 * planning district: 5



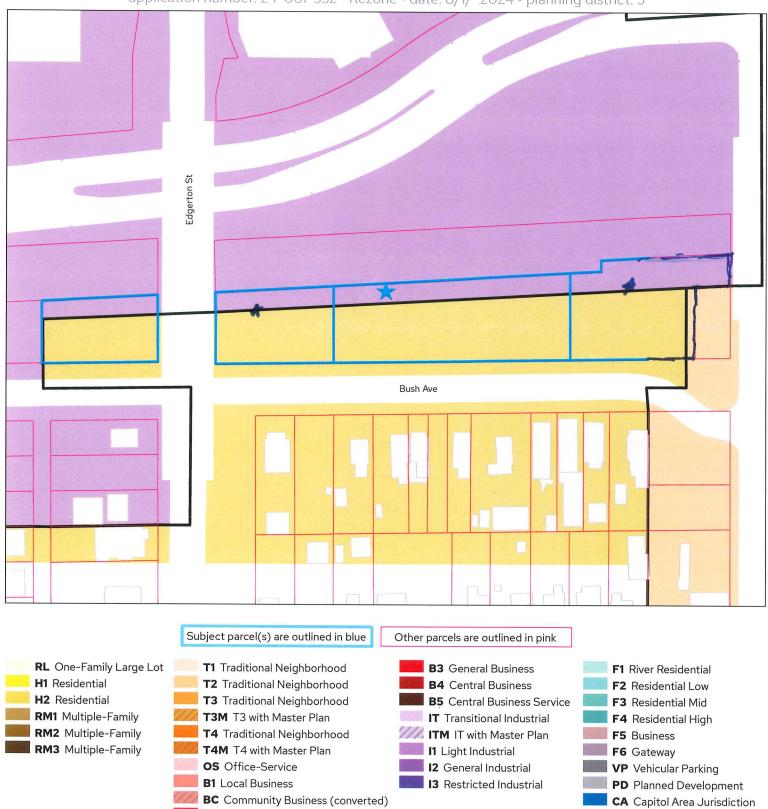




Application of

Tegg Holdings LLC Zoning map

application number: 24-061-552 * Rezone * date: 8/1/^2024 * planning district: 5





B2 Community Business

